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November 29, 2017

Via Email and Regular Mail

Magistrate Judge Martin C. Carlson
Ronald Reagan Federal Bldg. & U.S. Courthouse
228 Walnut Street
Harrisburg, PA 17108-0983
magistrate_judge_carlson@pamd.uscourts.gov

**Re: *Julie Ellen Wartluft f/k/a Julie Ellen Bartels and Frederick L. Bartels, Jr.,
Individually and as Administrators of the Estate of Abrielle Kira Bartels,
Deceased v. Milton Hershey School, et al.*
Civil Action No. 1:16-cv-2145-CCC (M.D. Pa.)**

Dear Judge Carlson:

We represent Defendants in the above-referenced action. We served a subpoena to produce documents, information, or objects (the "Subpoena") on Philhaven on or about March 9, 2017, with a return date of April 6, 2017. (Ex. "2".)

Since then, undersigned counsel has unsuccessfully engaged in extensive communications with Philhaven and its records request processor, MRO, to obtain compliance with the Subpoena. Accordingly, Defendants respectfully request that the Court enter the attached proposed Order directing Philhaven to comply with the Subpoena, and produced AB's complete medical file. (Ex. "1".) Plaintiffs concur with this request.

By way of background, Abrielle Bartels was hospitalized at Philhaven, an in-patient mental health institution, from May 28, 2013, to June 5, 2013. Defendants' Subpoena seeks AB's medical and mental health records. Unfortunately, Philhaven and MRO have obstructed discovery, and refused to comply with the Subpoena, despite Defendants many good faith attempts to resolve this issue without judicial intervention. For example, on March 30, 2017, and April 6, 2017, Defendants provided MRO updated authorizations for the release of records. (Exs. "3-4".) On April 23, 2017, and May 23, 2017, sixty days after being served with the Subpoena, MRO sent Defendants letters ignoring Defendants' previous correspondence. (Exs. "5-6".) On June 9, 2017, Defendants sent MRO a detailed letter requesting compliance with the Subpoena. (Ex. "7".) Despite MRO's assurances that it would comply with the Subpoena, on June 14, 2017, MRO sent Defendants a letter refusing to produce materials responsive to the Subpoena. (Ex. "8".) On June 30, 2017, in yet another attempt to seek compliance with the Subpoena without Court intervention, Defendants again requested MRO's compliance with the Subpoena. (Ex. "9".) Nevertheless, on July 3, 2017, and July 19, 2017, MRO continued to

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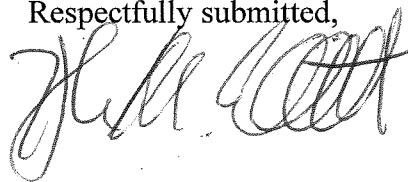
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obstruct discovery, and failed to comply with the Subpoena. (Exs. "10-11".) Counsel for Defendants also had multiple telephone conferences with MRO concerning the Subpoena. While MRO, on multiple occasions, orally agreed to comply with the Subpoena based on the already provided authorizations and certificate of death, it has failed to do so in violation of the Federal Rules of Civil Procedure.

Defendants have repeatedly requested Philhaven and MRO to comply with the Subpoena, but both have failed to do so, and have not produced any documents responsive to the Subpoena. Moreover, in light of alleviating any potential concerns related to the Pennsylvania Mental Health Procedures Act, 50 Pa. Cons. Stat. Ann. § 7111, and the Privacy Rule issued pursuant to the Health Insurance Portability and Accountability Act, 45 C.F.R. § 164.512(e), a Court Order is necessary to compel Philhaven to comply with its discovery obligations and produce Abrielle Bartels' complete medical chart pursuant to the Subpoena.

Accordingly, Defendants respectfully request that the Court enter the attached proposed Order. We are, of course, available to discuss the proposed Order at the Court's convenience. Thank you for your timely consideration.

Respectfully submitted,



Kyle M. Elliott

KME/gec

Enclosures

cc: Jarad W. Handelman, Esquire (*via email*)
Gregory F. Cirillo, Esquire (*via email*)
John J. Higson, Esquire (*via email*)
Kevin J. Neary (*via email*)
Philhaven (*via federal express with encl. & facsimile without encl.*)
MRO (*via federal express with encl. & facsimile without encl.*)